



Town Council Agenda Report

SUBJECT: Ordinance

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF THE TOWN OF DAVIE BY AMENDING SECTION 12-374 ENTITLED "MODIFICATION OF SITE PLAN"; PROVIDING FOR A PROHIBITION TO MODIFICATIONS AND CHANGES TO ANY DEVELOPMENT ORDER THAT RESULTS IN THE IMPOSITION OF CONDITIONS, STIPULATIONS, DEED AND USE RESTRICTIONS OR REPRESENTATIONS WHEN A SITE PLAN IS FILED IN CONJUNCTION WITH SAID DEVELOPMENT ORDER; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: This Ordinance amends Chapter 12 of the Code of the Town of Davie by revising Section 12-374 to ensure that any condition, stipulation, deed or use restriction or representations by a Developer during approval of a development order can not be modified or changed when a site plan application in conjunction with the approved development order is filed.

PREVIOUS ACTIONS: On September 15, 1999, Town Council discussed a draft of the proposed language and directed staff to prepare an ordinance.

CONCURRENCES: Staff recommends approval of the Ordinance

FISCAL IMPACT: Not applicable

RECOMMENDATION(S): Motion to approve the Ordinance.

Attachment(s): Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF THE TOWN OF DAVIE BY AMENDING SECTION 12-374 ENTITLED "MODIFICATION OF SITE PLAN"; PROVIDING FOR A PROHIBITION TO MODIFICATIONS AND CHANGES TO ANY DEVELOPMENT ORDER THAT RESULTS IN THE IMPOSITION OF CONDITIONS, STIPULATIONS, DEED AND USE RESTRICTIONS OR REPRESENTATIONS WHEN A SITE PLAN IS FILED IN CONJUNCTION WITH SAID DEVELOPMENT ORDER; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, site plans are reviewed by the Town Council and require Council approval; and

WHEREAS, Developers in the past have utilized Town code provisions, Town staff and Site Plan Committee to effectuate changes to site plans that deviate from the previous imposed requirements during the granting of a development order ; and

WHEREAS, the Town Council desires to ensure that no modification or change to imposed conditions stipulations, deed and use restrictions or representations related to the approval of a development order occur during a site plan application filed in conjunction with said approved development order.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That Section 12-374 of the Town Code is amended to read as follows: Subsequent to the approval of any development order by the Town Council that resulted in the imposition of conditions, stipulations, deed and use restrictions or representations by the Developer or authorized agent, no modification or change to the aforementioned conditions, stipulations, deed and use restrictions or representations can be considered by Town Staff or Site Plan Committee when a site plan application is filed in conjunction with the approved Development Order.

(A) Any material change in use of building, land or water, or institution of new uses, or alteration of or addition to buildings or structures, or erection of new buildings or structures that is not the result of conditions, stipulations, deed and use restrictions or representations imposed by Town Council during the approval of a Development Order shall be in accordance with a new or modified ~~development~~ development site plan conforming with and approved

(B) An amendment shall be considered a non-material modification if in compliance with each of the following limitations:

- (1) the change is non-use modifications;
- (2) the change is not an alteration that would otherwise require a variance or would not meet the requirements of the Code of Ordinances.
- (3) the setback or yard shown on the approved site plan for both principle and accessory buildings is not reduced below five (5) percent of that which was approved;
- (4) the lot coverage is not increased by more ~~that~~ than two (2) percent of that which was approved;
- (5) the spacing between principal and accessory buildings is not reduced below five (5) percent of that which was approved;
- (6) the height of a building or structure is not increased by more that five (5) feet or the maximum permitted in the district, whichever is less;
- (7) the floor area ratio is not increased by more than two (2) percent of that which was approved, however in no event shall the floor area be increased under this subsection by more than two hundred (200) square feet;
- (8) the change or addition of a model dwelling unit having building colors, landscaping and architectural features similar to other models which were approved;
- (9) changes to lot configurations in a residential development that do not increase the total number of lots shown on the approved plan;
- (10) changes to lot configurations in a residential development that do not reduce the square footage of any lot by more than two (2) percent of five hundred (500) square feet, whichever is less;
- (11) changes to lot configurations in a residential development that do not decrease the overall open space on the approved plan;
- (12) changes to landscape material, location , planting techniques, species, or size as deemed necessary due to availability or site conditions; and
- (13) changes that do not substantially decrease the value of or substantially change the character of any improvement or amenity.

(C) Upon considering whether a modification has met the criteria to be deemed a non-material modification, the Director of the Development Services Department, or their designee, shall render a decision as to whether the modification shall be reviewed by the Town staff and/or the Site Plan Committee. The Director shall have the discretionary authority to require Town Council review of any modification whether non-material or material.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to be the extent of such conflict hereby repealed. This ordinance shall take effect immediately upon its passage and adoption.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS_____DAY OF_____, 1999

PASSED ON SECOND READING THIS_____DAY OF_____, 1999

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 1999.